IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Writ Petition No.9435 of 2007.

Smt.Jhumi @ Jhamku and anr.

VERSUS

Jai Singh Rawat and ors.

Date of Order ::: 07.12.2007

Hon'ble Mr. Justice Mohammad Rafiq

Mr. Kapil Prakash Mathur, advocate, for for the Petitioner.
Ms. Manju Jain, Counsel for the respondents

By the Court :

Heard learned counsel for the parties.

This writ petition arising out of a order passed by the Additional District & Sessions Judge (Fast Track) No.4, Ajmer dated 17.09.2007, wherein the Tribunal while awarding compensation to the petitioner, imposed a condition to the

effect that the amount of compensation be released to the claimants only after the owner of the vehicle involved in the accident furnishes the security against the payment of compensation if eventually the insurance company is held entitled to recover the same. The said order came to be assailed by two claimants namely Smt. Rama & Balwant Singh in S.B. Civil Writ Petition No.71/06. A Co-ordinate bench of this Court upon hearing the parties vide order dated 14.2.2006 held that the aforesaid condition is unreasonable and unjustified and therefore waived the condition.

Learned counsel for the petitioner relied on the judgments passed by various co-ordinate benches of this Court in Banwari Lal Vs. Gopi Ram, S.B. Civil Misc. Appeal No.481/05, Sheoji Ram Mali Vs. The Judge, ADJ (F.T.) No.7, Jaipur & City &

Ors. in S.B. Civil Misc. Appeal No.8779/05 decided on 8.11.2005, Kumari Nargis Vs. Karan Singh & Ors., in S.B. Civil Misc. Appeal No.356/05 decided on 22.8.2006 & Manju (Smt.) & Ors. Vs. Addl. District & Session Judge & Ors., 2007 (1) RLW 40.

Learned counsel for the respondents although submits that they have applied for review of the aforesaid judgment in Smt. Rama (supra) but in the light of the fact that different single benches of this Court have taken the same view that non furnishing of the security by the owner cannot be a ground of depriving the claimants of the due amount of compensation, I do not deem it necessary to defer the hearing of the matter on that account.

Having gone through the judgments passed by the various co-ordinate benches

of this Court, I find myself in agreement with the view taken therein. The condition of making the payment of compensation to the claimants to depend upon the factum of security being furnished by the owner of the vehicle involved in the accident can neither be said to be justified nor reasonable.

The impugned condition is therefore ordered to be deleted and it is directed that the amount of compensation shall be forthwith released to the claimants subject to the scheme of investment etc. evolved by the Tribunal in the award.

The writ petition is accordingly allowed.

(Mohammad Rafiq),J.

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